

2016 **Blight** **Enforcement** Report

SEPTEMBER 12, 2016

STONINGTON
Department of Planning



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Overview

The Stonington Board of Selectman has requested an update about blight enforcement. This report has been developed to provide the Board with information about how blight is managed in the town, some of the gaps that have been identified by community members, and options for moving forward.

It is important to recognize that blight is a symptom that has many causes. A blighted property is often the visual indicator of a decision to no longer invest. The disinvestment in a particular property or neighborhood is a result of various market forces and consumer confidence which guide investment decisions. As a result, a strategy that focuses on enforcement will only address the surficial attributes of blight.

WHAT IS BLIGHT?

While blight is a symptom, it is generally defined as “The visible and physical decline of a property, neighborhood or community due to a combination of economic downturns, residents and businesses leaving the area and the cost of maintaining the quality of older structures. These factors tend to feed on themselves, with each one contributing to an increase in the occurrence of the others.” investopedia.com/terms/e/economic-blight.asp

WHY DOES BLIGHT MATTER?

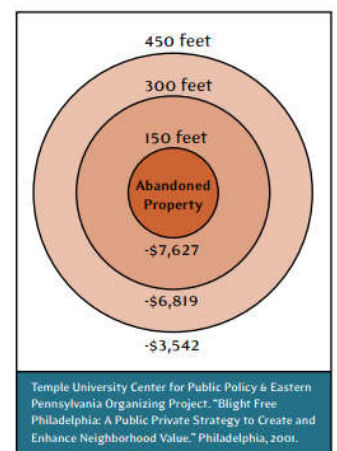
Blighted and vacant properties have an adverse impact on a neighborhood and the community. They send signals to the market that there is a lack of investment here, which erodes investor and consumer confidence. For the Town of Stonington, these signals then result in a loss of property tax revenue and neighborhood quality of life, as other properties are likely to see a decline in their property values as well. Areas in decline also send signals to those who seek to exploit the situation.

The cycle of disinvestment can then spiral out of control. The private sector has not found an effective way to prevent blight from becoming viral. Several studies have been conducted in order to quantify the economic impact of blight. They have found that vacant and blighted buildings:

- Have 3.2 times as many illegal drug calls, and 1.8 times as many theft calls (Austin, Texas).
- 12,000 fires and \$73 million in property damage from arson (US Fire Administration).
- Millions in annual site cleanup / public maintenance expenses by governmental agencies.
- \$7,600 in lost property value for properties within 150 feet (Philadelphia, Pennsylvania). See the “Impact of Blight” sidebar.

IMPACT OF BLIGHT

In a 2001 Study by Temple University in Philadelphia, researchers found that vacant properties had a negative value on adjacent properties, leading to more disinvestment (i.e., it becomes contagious). The following graphic depicts the impact of property values based on proximity to vacant buildings:



Graphic source:
astro.temple.edu/~ashlay/blight.pdf


BLIGHT IN CONNECTICUT

There is no universal property maintenance code or definition of blight in the federal or state regulations. Each Connecticut community is empowered by state law to determine whether they want to identify and blight. In 2010, the Town of Stonington chose to adopt an ordinance to address blight. The ordinance established the community's values and the definition of blight. It is an unique document, as are most of the blight ordinances found in other communities.

BLIGHT LEGISLATION

The Connecticut General Statutes section 7-148 provides the community with broad authority to protect, preserve and promote public health, safety and welfare. This act authorizes towns to make and enforce regulations for the remediation of blight. In Stonington, a town ordinance is required to enable the use of this provision.

STATE OF DISREPAIR / BECOMING DILAPIDATED PROVISION

Items highlighted  fall under the “state of disrepair” / “becoming dilapidated” provision in the Town Ordinance. For a property to be considered blighted, the Ordinance requires that **at least two of these items** be present.

In reviewing past complaints, the property condition (e.g., vegetation) is the most often cited “blighted” element.

OLR REPORT

“Comparison of Municipal Blight Ordinances,” November 21, 2013

cga.ct.gov/2013/rpt/2013-R-0422.htm

BLIGHT ELEMENTS

In 2013, the Connecticut Office of Legislative Research (OLR – see sidebar) conducted a comparison of municipal blight ordinances. The key features of such ordinances are how blight is defined and how enforcement is conducted.

The OLR Report found: Ordinances generally do not define the term “blight.” Rather, they define “blighted premises” and related terms such as “abandoned property,” “accessory structure,” “community standard,” “deterioration,” “dwelling,” “nuisance,” “proximate property,” “uninhabitable,” and “vacant.” The following table lists the most recognized elements of blight:

TYPICAL BLIGHT ELEMENT	INCLUDED IN STONINGTON ORDINANCE?
BUILDING CONDITION	
Collapsing or missing exterior walls or roofs;	YES
Extended vacancy of a dwelling, multiple dwelling, or mixed commercial use property	NO
Fire Marshal has determined that a building or structure is a fire hazard	YES
Graffiti	NO
Missing, broken or boarded up windows or doors;	YES
Overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes, and exhaust ducts, which contain rust or other decay	NO
Seriously damaged or missing siding;	YES
Structurally faulty conditions;	YES
Unrepaired fire or water damage;	YES
Vacant buildings or structures left unsecured or unguarded against unauthorized entry	NO
CRIME	
Attracting illegal activity, as documented in police records	NO
Poses a serious or immediate threat to the health, safety or general welfare of the community.	YES
GARBAGE	
Persistent garbage or trash on the property.	YES
Providing a sanitary place for garbage and refuse to be stored, minimizing exposure to public view	NO
INSURANCE	
Is a factor as a result of its inadequate maintenance or dilapidated condition that has led to the cancellation of insurance on the subject and/or proximal properties	YES

TYPICAL BLIGHT ELEMENT	INCLUDED IN STONINGTON ORDINANCE?
PROPERTY CONDITION	
Commercial parking lots left in a state of disrepair or abandonment	NO
Creates a substantial and unreasonable interference with the use and enjoyment of nearby premises, as documented by neighborhood complaints, police reports, cancellation of insurance on proximate properties, or similar circumstances	NO
Dead, decayed, diseased, or damaged trees constituting a hazard or danger to persons or property	NO
Inoperative or unregistered boats	NO
Landscaping that physically hinders or interferes with lawful use of abutting premises or a public sidewalk, street, right of way, or road sign	NO
Two or more unregistered motor vehicles in public view	NO
Weeds or similar vegetation (excluding flowers, fruits, vegetables, and areas maintained in their naturally wooded or field state) allowed to reach and remain at a height of “x” inches or greater for 30 or more days [“x” is a community values based measurement]	NO

TYPICAL STONINGTON BLIGHT ENFORCEMENT PROCESS

1. First Selectman’s Office Receives Complaint
2. Forwards Complaint to Building Official, Health Agent and Zoning Official
3. Various Officials conduct inspection; verify complaint
4. If the property is in violation of other codes (e.g., building, fire, health zoning), those officials should take action
5. If the property is only in violation of the blight ordinance, the complaint is returned to the First Selectman’s Office for further action

ENFORCEMENT CHALLENGES

There are three particular elements that make the existing Ordinance challenging:

1. Insurance requirement: “It is a factor as a result of its inadequate maintenance or dilapidated condition that has led to the cancellation of insurance on the subject and/or proximal properties.” Property owners are not required to have insurance. We have not found an instance when an eligible property has been unable to secure insurance because of an adjacent property. It is unreasonable to request property owners to provide documentation of insurance. It raises some concerns about 4th Amendment Rights.
2. Process: The process outlined in the ordinance is unclear and create confusion to administer. Of particular concern is whether an uncontested citation follows the state law timeframe of 10 days or if there is a separate process providing 30 days within the ordinance.
3. Definitions: Based on the number of blight complaints that are not considered blight, blight is not as inclusively defined as it is perceived by the community.

What we have found is that complaints that involve issues other than blight are readily addressed by the other town agencies.

While most of the blight complaints have been resolved, it has not been a result of this ordinance.

How Blight is Enforced

Enforcement is one of the biggest challenges of many Ordinances. Ordinances require three elements to be successful: clear language (e.g., the law has to be

WHAT MAKES A LAW EFFECTIVE?

An effective law should be enforceable, sufficiently precise, so that it can be enforced, and in general accord with the morality of the population it covers.

ENFORCEMENT OFFICER

In July of 2016, the First Selectman, Rob Simmons, appointed Jason Vincent, AICP as the Blight Enforcement Officer. Since that time 2 citations have been issued.

TOTAL COMPLAINTS

53% of the blight complaints do not meet the town definition of blight. Over ½ of the complaints do not satisfy the complainant's expectations, which results in frustration and erodes confidence in the system.

PROPERTIES DETERMINED TO BE BLIGHT

90% of blight enforcement actions have been completed, most of which used other tools (e.g., building, health zoning) and their respective enforcement agent.

10% of complaints are actively being enforced.

understandable), resources (e.g., trained staff), and aligns with the values of the community (e.g., political will).

STONINGTON

When Stonington residents adopted the Distressed Premises Ordinance, the community assigned the enforcement to the First Selectman. At that time, the First Selectman developed an informal team approach, which involved the building, zoning and health officials. Complaints would be received by the Selectmen's office, and imputed into a purpose-made tracking tool (i.e., "database") using Microsoft Excel.

The complaint would then be forwarded to the team members via interoffice mail, with a request that they conduct a site inspection. If a complaint were determined to be valid, the First Selectman would then follow up with an enforcement action. Enforcement actions ranged from initial conversations with property owners to formal Notices of Violation and Citations.

However, when the administration changed, so did the process. Then the administration changed again. Because Stonington, like many communities, does not have an institutional memory, changes of personnel can impact informal processes. Informal processes are most likely to be forgotten.

What we have found is that complaints that involve issues other than blight are readily addressed by the other town agencies. Absentee ownership is the leading cause of the remaining blight cases. Further, while most of the blight complaints have been resolved, it has not been as a result of this ordinance.

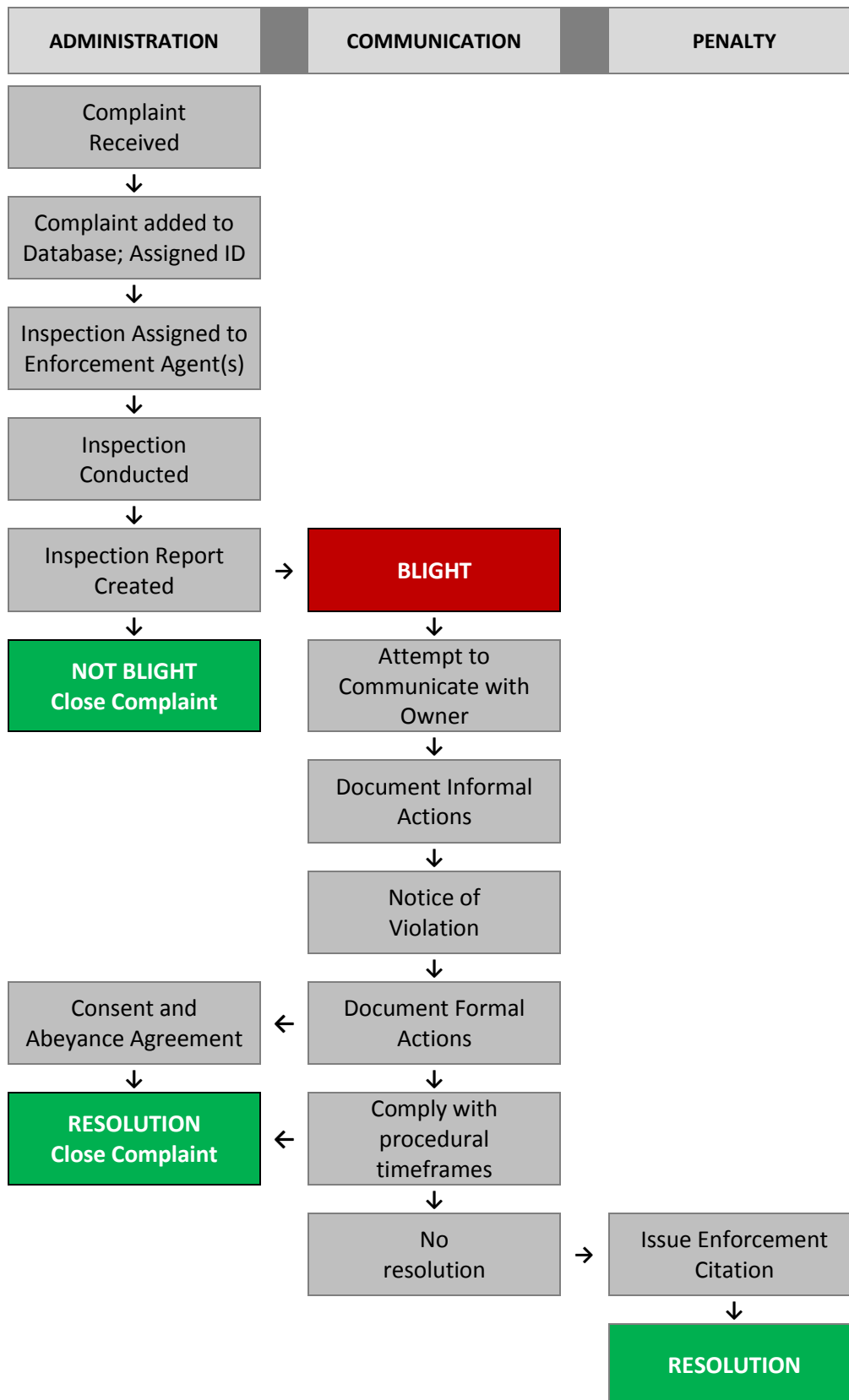
ENFORCEMENT HISTORY

YEAR	COMPLAINTS	NOT "BLIGHT"	RESOLVED	ACTIVE / UNKNOWN	FINES ISSUED	TOTAL COLLECTED
2010	28	13	10	5 ^a	2	
2011	37	15	20	2 ^a		
2012	22	12	10	0		
2013	17	15	2	0		
2014	10	7	3	0		
2015	16	6	7	3		
2016	22	13	5	4	2	
TOTAL	152	81	57	14	4	

NOTES

a The database does not include information about seven cases from 2010-2011

BLIGHT ENFORCEMENT PROCESS



ACTIVE ENFORCEMENT

There are four active Blight Enforcement cases under the current administration:

1. 2-4 Mechanic Street. This property was cited for blight in 2010, and the owner worked to resolve the violations. **A Citation has been issued, and the property is accumulating \$100/day fines.**
2. 10 Meadowbrook Lane. This property has been a source of frustration for several years. It is currently owned by the Federal National Mortgage Association. **A Citation has been issued, and the property is accumulating \$100/day fines.**
3. 197 North Stonington Road. This property has been in probate for several years, and has been a frequent source of complaints. **A Notice of Violation (NOV) has been issued for this property.**
4. 14 L'Hirondelle Lane. Property caught on fire on June 17, 2016. The fire investigation was completed in August. No enforcement action has been taken at this time. Enforcement strategy may change at the six month mark.

ALTERNATIVES ANALYSIS

An Alternatives Analysis (sometimes called an Analysis of Alternatives) is an evaluation process used to identify all of the potential choices available for a complex decision.

Moving Forward - Alternatives Assessment

There are three main issues with blight in Stonington:

- 1. Blight is a symptom of a bigger problem.
- 2. When enforcement is breaking down, it is because there is insufficient attention given to it under the current ordinance.
- 3. The definition of blight is not aligning to public perception of blight.

The community has three main choices to consider as it moves forward: Do Nothing, Modify Regulations, or Create Additional Tools. Some of the choices are not mutually exclusive.

ALTERNATIVES ASSESSMENT

DO NOTHING	MODIFY REGULATIONS		CREATE ADDITIONAL TOOLS
	UPDATE	REPEAL	

The “Do Nothing” Option

DO NOTHING	MODIFY REGULATIONS		CREATE ADDITIONAL TOOLS
	UPDATE	REPEAL	

A “Do Nothing” / Status Quo option exists in every alternatives assessment. In this case, Do Nothing does not solve any of the issues identified in this analysis.

There are insufficient resources for blight enforcement. The budget does not allocate resources for administration and it is not appropriate to leave administration to an elected official who also serves as the Chief Elected Official of the community.

Community expectations are not being satisfied. Over half of the complaints cannot be validated, leaving complainants frustrated with their government. That frustration is being expressed in various forums, often critical of the process and those empowered to administer it.

The “Modify Regulations” Option

DO NOTHING	MODIFY REGULATIONS		CREATE ADDITIONAL TOOLS
	UPDATE	REPEAL	

This option has a number of sub-options that range from modifying the existing ordinance to repealing it entirely. The review and assessment of any law has both pros and cons:

PROS	CONS
<ul style="list-style-type: none"> Public dialog Enables conversation about the law and whether it is still warranted Forces the community to develop consensus on challenging definitions Furtheres the management of expectations 	<ul style="list-style-type: none"> Outcome may not satisfy some participant’s objectives May not equate to resource allocation

ORIGINAL PROPOSAL

In 2008, the Town began the process of drafting language for what is now referred to as the distressed premises ordinance. The original language required only a single state of disrepair element to be present on a property, as opposed to two elements required in the adopted ordinance.

It also exempted one-, two-, and three-family properties. There may be other minor changes that were made to the original proposal, but they do not appear to be substantive.

RECOMMENDED MINIMUM CHANGES TO THE TOWN ORDINANCE

1. Align the **Distressed Premises Ordinance** and the **Zoning Violation Citations and Procedures Ordinance** to use the same citation process and hearing process.
2. Consider adding criminal penalties provision.
3. Enable consent and abeyance tool.
4. Remove insurance requirement. Property insurance is not a legal requirement of property ownership.

RECOMMENDED ADMINISTRATIVE CHANGES

1. Fund a blight enforcement officer position. Perhaps an existing trained employee can be assigned this position.
2. Create a Standard Operating Procedure manual for the enforcement officer.
3. Improve the tracking tool.
4. Reduce initial inspection assignment to a single enforcement officer.

TAX INCREMENT FINANCING (TIF)

Tax Increment Financing is an Economic Development Incentive (EDI) utilized in 49 states.

Nationally, TIFs are adopted for one of the following reasons:

- market failure (e.g., lack of demand)
- blighted area
- bidding war among nearby communities

TIF can be an innovative way for the community to invest in itself with money it currently does not have, or have any anticipation that it will earn.

The “Create Additional Tools” Option

DO NOTHING	MODIFY REGULATIONS		CREATE ADDITIONAL TOOLS
	UPDATE	REPEAL	

Blight enforcement is one of the ways many communities address the symptoms of disinvestment. A more pointed approach would include addressing the causes. Connecticut provides communities with several tools to enable private investment in blighted / weak market neighborhoods.

Some of the tools available to address blight include:

- Registration and maintenance of foreclosed properties
- Neighborhood Revitalization Zones (NRZ)
- Connecticut City and Town Development Act
- Redevelopment and urban renewal
- Urban homesteading
- Municipal Development Projects (MDP)
- Tax Increment Financing (TIF – see sidebar)
- Rehabilitation of Abandoned Industrial and Commercial Buildings
- Tax abatement for properties in designated redevelopment areas

RECOMMENDED TOOL EXPLORATION

Stonington should consider investing in an evaluation of the market conditions of known blighted neighborhoods, and develop strategies to address those market conditions. A Master Development Plan (MDP) is such a tool, and can prove to be a valuable instrument when attractive development proposals are identified.

Tax increment Financing, and leveraging the public’s future returns can be a way to kick start private investment. Considering that the town’s main revenue source is from property tax revenues, investing in the long-term ability of a property to increase in value would have a high return for the community.

Distressed Premises Ordinance

ORDINANCE RE: DISTRESSED PREMISES BE IT HEREBY ORDAINED BY THE LEGAL VOTERS OF THE TOWN OF STONINGTON IN LAWFUL MEETING DULY ASSEMBLED THAT THE FOLLOWING ORDINANCE BE ESTABLISHED BY THE TOWN OF STONINGTON:

Section I. PURPOSE

It is hereby found and declared that there exists within the Town of Stonington a number of real properties, which are in a blighted condition, and that the continued existence of such properties contributes to the decline of neighborhoods. It is further found that the existence of such properties adversely affects the economic well being of the Town of Stonington and is inimical to the health, safety, and welfare of its residents.

Section II. DEFINITIONS

Whenever in this Ordinance the following terms are used, they shall be the meaning respectively ascribed to them in this section.

- A. **BLIGHTED PROPERTY** – Any house, building or structure in which at least one of the following conditions exists:
1. It has been determined by the Town Building Official, Zoning Enforcement Officer or Town Sanitarian that a condition exists that poses a serious or immediate threat to the health, safety or general welfare of the community.
 2. The property is in a state of disrepair or is becoming dilapidated and evidenced by at least two or more of the following:
 - (a) Missing, broken or boarded up windows or doors;
 - (b) Collapsing or missing exterior walls or roofs;
 - (c) Structurally faulty conditions;
 - (d) Unrepaired fire or water damage;
 - (e) Seriously damaged or missing siding;
 - (f) Persistent garbage or trash on the property.
 3. It is a factor as a result of its inadequate maintenance or dilapidated condition that has led to the cancellation of insurance on the subject and/or proximal properties.
 4. It is a factor as a result of the inadequate maintenance or dilapidated condition that has materially contributed to a decline or diminution in property values on proximate properties.
 5. The Fire Marshal has determined that a building or structure is a fire hazard.
- B. **CITATION HEARING OFFICER** – A person or persons appointed by the First Selectman as an officer, as defined in and pursuant to Connecticut General Statutes (C.G.S.) § 7-152c, to serve as the Citation Hearing Officer. Such officer shall be other than any individual who issues citations and shall serve for terms of two years, unless removed for cause.
- C. **DILAPIDATED** – Any building or structure or part thereof which is deemed an unsafe structure as defined in the Connecticut State Building Code, as amended, or any dwelling or unit which is designated as unfit for human habitation as defined by the Connecticut Public Health Code.
- D. **ENFORCEMENT OFFICER** – A person or persons authorized by the First Selectman to take such enforcement actions and to issue citations as are specified in this Ordinance, who shall not be a Citation Hearing Officer.

Section III. EXCEPTIONS/SPECIAL CONSIDERATION

This ordinance shall apply to all residential dwelling units and nonresidential space except:

- (a) Any blighted premises for which a site plan or special use permit is pending before the Planning & Zoning Commission.
- (b) Any such building or structure located on any active farm.
- (c) Any building or structure undergoing remodeling being diligently conducted and pursued under an active building permit, provided that said exemption is only applicable during the period such building permit is valid.

Section IV. CREATION OR MAINTENANCE OF A BLIGHTED PROPERTY PROHIBITED

No owner, agent, tenant and/or person responsible for the care, maintenance and/or condition of real property, shall cause or allow any blighted property, as defined in Section II, to be created, maintained or continued.

Section V. NOTICE OF VIOLATION

1. The town, through its designated Enforcement Officer, shall serve written notice to an owner, agent, tenant and/or person responsible for the blighted premises. The notice may be hand delivered or mailed by certified mail, return receipt requested, to the address of the owner as on file with the Town Assessor's office, or any of the persons identified in Section IV of this Ordinance, or in the case of an owner whose address is unknown, by publishing a copy of such notice in a daily or weekly newspaper having a circulation in the Town. If the notice is mailed only to one of the responsible parties, it shall in no

way be, or be construed to be, a release of any other responsible party. If there is more than one responsible party identified in the notice, the responsibility for complying with the notice shall be joint and several.

2. Notwithstanding anything to the contrary, the notice shall state the violation(s) of this Ordinance, what steps need to be taken to remedy the violation, demand its abatement within thirty (30) calendar days, and list the amount of fines that would be due and when uncontested payments can be made and accepted. If the owner fails to correct the violation(s), the Town may issue an enforcement citation as specified herein.

Section VI. ENFORCEMENT CITATION

If any violation remains unabated after 30 days, the Enforcement Officer is hereby authorized by the First Selectman to issue a citation to the violator in accordance with this article. The citation will require payment of a fine of \$100 per day that a violation continues and shall require payment within thirty (30) days from the issuance thereof.

Section VII. CITATION PROCEDURE

1. The Town hereby adopts the citation procedure and appeal procedure that is set forth, and is in accordance with, C.G.S. §7-152c as that statute may be amended from time to time.
2. In addition to the procedures set forth in paragraph 1 above, the Citation Hearing Officer shall render its decision in writing and shall file it with the Enforcement Officer, the First Selectman and send it by certified mail, return receipt requested, to the owner, agent, tenant, or responsible person, and to all parties in the proceedings. If the final decision is that the property is blighted, the owner, agent, tenant, or responsible person shall have fifteen (15) calendar days to file with the Enforcement Officer a written timetable to rectify the violation within a reasonable period of time as determined by the Enforcement Officer.
3. The Enforcement Officer shall not have the authority to extend any of the deadlines set out in this Ordinance.
4. If the owner, agent, tenant or responsible person fails to respond to the citation of blight, fails to attend any hearing or adjourned hearing before the Citation Hearing Officer or is unwilling or unable to rehabilitate or maintain the blighted property within a reasonable time, the Enforcement Officer shall impose a penalty of not more than one hundred dollars (\$100.00) per day for each day that the property violates this Ordinance. The fine shall be retroactive to the date of the Enforcement Officer's initial letter to the owner, agent, tenant or responsible party or in the case of an unidentified owner, the date of publication of notice in the daily newspaper. Each day that a violation of this Ordinance exists shall constitute a separate offense. The Enforcement Officer shall impose said penalty by notifying the owner, agents, tenant or responsible party by certified mail, return receipt requested, and shall notify the First Selectman.
5. The final period for the uncontested payment of any citation under this ordinance shall be thirty (30) days after the mailing or delivery of the citation.

Section VIII. MUNICIPAL ABATEMENT

1. In the event any owner, agent, tenant or person in control of real property shall fail to abate or correct any violation specified in any notice, after the issuance of an enforcement citation for such failure, which citation has become final through the failure of such owner, agent, tenant or person in control of real property to appeal from the issuance of said citation, or by such appeal being sustained, the Town of Stonington, acting through its designated Enforcement Officer issuing such notice of violation, may cause or take such action as is necessary to correct such violation. The cost to take such action shall be a civil claim by the Town against such owner, agent, tenant or person responsible for such property, and the Town Attorney may bring an action to recover all such costs and expenses incurred.
2. If the owner, agent, tenant or responsible person fails to correct the violations, the Town of Stonington may take any action necessary pursuant to C.G.S. § 7-148(c)(7)(E) to abate the nuisance at any time after the initial twenty-four (24) hour notice of such property.

Section IX. RECORDING LIEN

In addition to having a lien for abatement expenses, any unpaid fines or costs of abatement shall constitute a lien upon the real estate in accordance with C.G.S. Section 7-148aa, and each such lien shall be continued, recorded and released as provided for therein.

Section X. EFFECTIVE DATE

This Ordinance shall become effective fifteen (15) days after publication in a newspaper having a substantial circulation within the Town.

Section XI. MISCELLANEOUS PROVISIONS

1. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.
2. If any provision of this ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of this ordinance that can be given effect without the invalid provisions or applications; and to this end, the provisions of this ordinance and the various applications thereof are declared to be severable.